

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**KATHERINE MONSON, individually §  
and on behalf of all others similarly §  
situated §**

**Plaintiff,**

**v.**

**McCLENNY, MOSELEY & §  
ASSOCIATES; JAMES MCCLENNY; §  
JOHN ZACHARY MOSELEY; TORT §  
NETWORK, LLC §**

**Defendants. §**

**Civil Action No. 4:23-cv-00928**

**PLAINTIFF’S MOTION FOR LEAVE TO FILE  
FIRST AMENDED AND RESTATED COMPLAINT  
FOR CLASS ACTION AND DAMAGES**

NOW INTO COURT, through undersigned counsel, comes Complainant, Katherine Monson, individually and on behalf of all others similarly situated (“Monson”), who respectfully submits this Motion for Leave to File First Amended And Restated Complaint For Class Action And Damages. This motion is filed pursuant to Federal Rules of Civil Procedure 15(a). The Complainant hereby attaches her First Amended and Restated Complaint for Class Action and Damages as Exhibit 1.

1.

“A presumption in favor of amendment underlies the rule governing amendments and affords the court broad discretion in granting leave to amend.” *Terra Nova Sciences, LLC v. JOA Oil and Gas Houston, LLC*, 738 F.Supp.2d 689, 700 (S. D. Texas, Houston Div, 2010), citing *U.S. ex rel. Willard v. Humana Health Plan of Tex. Inc.*, 336 F.3d 375, 386 (5th Cir.2003).

2.

Complainant's proposed amended complaint seeks to add two additional defendants and more accurately sets forth the basis of Complainant's causes of action and makes additional allegations substantiating the relief which Complainant is seeking.

3.

This is their first requested amendment, the Court is currently considering a motion to dismiss the allegations, the matter has not progressed to discovery, and a docket control order has been issued requiring amended pleadings be filed by November 15, 2023. Therefore, there is no prejudice to the Defendants in allowing this amendment. See *N. Cypress Med. Ctr. Operating Co., Ltd. v. Aetna Life Ins. Co.*, 898 F.3d 461, 477 (5th Cir. 2018).

### CONCLUSION

Based on the foregoing reasons above, the Court should GRANT the motion and accept the attached amended complaint.

Respectfully Submitted:

s/Jonathan P. Lemann

Jonathan P. Lemann

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*Attorney for Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 15<sup>th</sup> day of November, 2023, the foregoing document was filed with the Court via the Court's CM/ECF system and served on all counsel of record pursuant to the Federal Rules of Civil Procedure.

*s/Jonathan P. Lemann*  
Jonathan P. Lemann